

BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DANIEL F. STULAC  
4700 Kinzie Avenue  
Racine, WI 53406

Certified Public Accountant  
Certificate No. 77311

Respondent.

Case No. AC-2011-16

OAH No. 2012020200

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 24, 2012

It is so ORDERED November 26, 2012

  
FOR THE CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 CARL W. SONNE  
Deputy Attorney General  
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*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

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12 **DANIEL F. STULAC**  
13 **4700 Kinzie Avenue**  
14 **Racine, WI 53406**

15 **Certified Public Accountant**  
**Certificate No. 77311**

16 Respondent.

Case No. AC-2011-16

OAH No. 2012020200

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
19 proceeding that the following matters are true:

20 **PARTIES**

21 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of  
22 Accountancy. She brought this action solely in her official capacity and is represented in this  
23 matter by Kamala D. Harris, Attorney General of the State of California, by Carl W. Sonne,  
24 Deputy Attorney General.

25 2. Daniel F. Stulac (Respondent) is represented in this proceeding by attorney Michael  
26 Attanasio, whose address is Michael Attanasio, Esq., Cooley LLP, 4401 Eastgate Mall,  
27 San Diego, CA 92121-1909.  
28

3. On or about April 8, 1999, the California Board of Accountancy issued Certified Public Accountant Certificate No. 77311 to Daniel F. Stulac (Respondent). The Certified Public Accountant Certificate expired on July 31, 2004, and has not been renewed. Effective August 1, 2009, the certificate was cancelled pursuant to California Business and Professions Code section 5070.7 for failure to renew the certificate within five (5) years.

## JURISDICTION

4. Accusation No. AC-2011-16 was filed before the California Board of Accountancy (CBA), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 30, 2011. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2011-16 is attached as Exhibit A and incorporated by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. AC-2011-16. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. AC-2011-16, agrees that cause exists for discipline and hereby surrenders his Certified Public Accountant Certificate No. 77311 for the CBA's formal acceptance.

1       9.     Respondent understands that by signing this stipulation he enables the CBA to issue  
2     an order accepting the surrender of his Certified Public Accountant Certificate without further  
3     process.

4                                   RESERVATION

5       10.    The admissions made by Respondent herein are only for the purposes of this  
6     proceeding, or any other proceedings in which the California Board of Accountancy or other  
7     professional licensing agency is involved, and shall not be admissible in any other criminal or  
8     civil proceeding.

9                                   CONTINGENCY

10       11.   This stipulation shall be subject to approval by the California Board of Accountancy.  
11     Respondent understands and agrees that counsel for Complainant and the staff of the California  
12     Board of Accountancy may communicate directly with the CBA regarding this stipulation and  
13     surrender, without notice to or participation by Respondent or his counsel. By signing the  
14     stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
15     to rescind the stipulation prior to the time the CBA considers and acts upon it. If the CBA fails to  
16     adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order  
17     shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action  
18     between the parties, and the CBA shall not be disqualified from further action by having  
19     considered this matter.

20       12.   The parties understand and agree that facsimile or electronically scanned copies of  
21     this Stipulated Surrender of License and Order, including facsimile or electronic scanned  
22     signatures thereto, shall have the same force and effect as the originals.

23       13.   This Stipulated Surrender of License and Order is intended by the parties to be an  
24     integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
25     It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
26     negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order  
27     may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
28     executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the CBA may, without further notice or formal proceeding, issue and enter the following Order:

## ORDER

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. 77311, issued to Respondent Daniel F. Stulac, is surrendered and accepted by the California Board of Accountancy.

1. The surrender of Respondent's Certified Public Accountant Certificate and the acceptance of the surrendered license by the CBA shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the California Board of Accountancy.

2. Respondent shall lose all rights and privileges as an accountant in California as of the effective date of the CBA's Decision and Order.

3. Respondent shall cause to be delivered to the CBA his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the CBA shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. AC-2011-16 shall be deemed to be true, correct and admitted by Respondent when the CBA determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$4,500 prior to issuance of a new or reinstated license.

## ACCEPTANCE

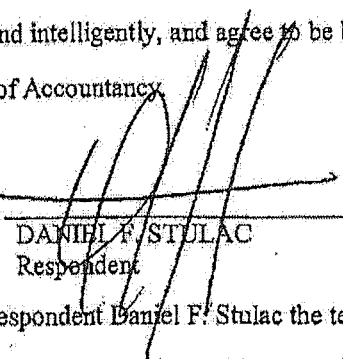
I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Michael Attanasio. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated Surrender of

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111


1 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
2 Decision and Order of the California Board of Accountancy

3  
4 DATED: 10/10/12

  
DANIEL F. STULAC  
Respondent

6 I have read and fully discussed with Respondent Daniel F. Stulac the terms and conditions  
7 and other matters contained in the above Stipulated Surrender of License and Order. I approve of  
8 its form and content.

9 DATED: 10/11/12

  
MICHAEL ATTANASIO  
Attorney for Respondent


11  
12 ENDORSEMENT

13 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
14 for consideration by the California Board of Accountancy of the Department of Consumer  
15 Affairs.

16 Dated:

Respectfully submitted,

17 KAMALA D. HARRIS  
Attorney General of California  
18 JAMES M. LEDAKIS  
Supervising Deputy Attorney General

19  
20   
21 CARL W. SONNE  
Deputy Attorney General  
22 Attorneys for Complainant

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**Exhibit A**

**Accusation No. AC-2011-16**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 CARL W. SONNE  
Deputy Attorney General  
4 State Bar No. 116253  
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**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2011-16

12 **DANIEL F. STULAC**  
13 **4700 Kinzie Avenue**  
14 **Racine, WI 53406**

**ACCUSATION**

15 **Certified Public Accountant**  
**Certificate No. 77311**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as  
21 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

22 2. On or about April 8, 1999, the California Board of Accountancy (CBA) issued  
23 Certified Public Accountant Certificate Number 77311 to Daniel F. Stulac (Respondent). The  
24 Certified Public Accountant Certificate expired on July 31, 2004, and has not been renewed.  
25 Effective August 1, 2009, the certificate was cancelled pursuant to California Business and  
26 Professions Code section 5070.7 for failure to renew the certificate within five (5) years.  
27  
28



## JURISDICTION

3. This Accusation is brought before the CBA under the authority of the following laws.

All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 5063(a)(3) states:

(a) A licensee shall report to the board in writing of the occurrence of any of the following events occurring on or after January 1, 1997, within 30 days of the date the licensee has knowledge of these events:

...

(3) The cancellation, revocation, or suspension of the right to practice as a certified public accountant or a public accountant before any governmental body or agency.

5. Section 5100 states:

After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

....

(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

(h) Suspension or revocation of the right to practice before any governmental body or agency.

....

"(l) The imposition of any discipline, penalty, or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation."

6. Section 5107(a) of the Code states:

The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board shall not recover costs incurred at the administrative hearing.

7. Section 5109 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license.

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## FACTS

9. On February 26, 2010, the CBA received correspondence from the Securities and Exchange Commission (SEC), notifying the CBA of Respondent's suspension from appearing or practicing before the SEC as an accountant. The letter stated Respondent consented to the issuance of the SEC's Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions (SEC Order) without admitting or denying the findings therein. The letter also stated the SEC suspended Respondent based on a U.S. District Court's order enjoining him from violating the antifraud and other provisions of the federal securities law.

10. Enclosed with the letter were copies of the Order, In the Matter of Daniel F. Stulac; the Order, In the Matter of Berdj J. Rassam, CPA, which is a related but separate matter from Respondent's matter; the Consent of Daniel F. Stulac (Consent); the Final Judgment of Daniel F. Stulac (Judgment); the Complaint, Case No. 04 CV 2002 JAH (RBB) (SEC Complaint); and two SEC Litigation Releases, No. 18205 dated June 30, 2003 and No. 18919 dated October 6, 2004.

11. The SEC Order stated in pertinent part:

*Stulac became a partner at Arthur Anderson in September 2000 and was the engagement partner on the audit of Peregrine Systems, Inc. ("Peregrine") from September 2000 to September 2001. At the time Stulac was the engagement partner on the audit, Peregrine was a Delaware corporation with principal offices in San*

1 *Diego, California. Peregrine's primary business involved selling infrastructure*  
2 *management software. From its initial public offering in April 1997, until it merged*  
3 *with Hewlett-Packard in 2005, Peregrine's common stock was registered with the*  
4 *Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934*  
5 *("Exchange Act"). It traded on the Nasdaq National Market System from its initial*  
6 *public offering until August 30, 2002, when it was delisted and quoted on the Pink*  
7 *Sheets. In February 2003, Peregrine announced the restatement of \$509 million of*  
8 *revenue it had improperly recorded.*

9 *On September 14, 2009, a final judgment was entered against Stulac,*  
10 *permanently enjoining him from future violations of Sections 10(b) of the Exchange*  
11 *Act and Rule 10b-5 thereunder, and from aiding and abetting violations of Section*  
12 *13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder, in the civil action*  
13 *entitled Securities and Exchange Commission v. Stephen P. Gardner, et al., Civil*  
14 *Action No. 04 CV 2002 (S.D. Cal.).*

15 *The Commission's Complaint alleged, among other things, that Peregrine and*  
16 *its senior officers fraudulently inflated the revenues Peregrine reported in its filings*  
17 *with the Commission and elsewhere. Peregrine improperly recorded millions of*  
18 *dollars of revenue based on non-binding arrangements with resellers. This ultimately*  
19 *caused uncollectible receivables from the non-binding arrangements to swell on*  
20 *Peregrine's balance sheet. The Complaint further alleged that Peregrine's*  
21 *management improperly wrote off unpaid receivables by falsely characterizing the*  
22 *write-offs as "acquisition costs and other." According to the Commission's*  
23 *Complaint, Stulac knew, or was reckless in not knowing, that the receivables*  
24 *Peregrine intended to write off were unrelated to acquisitions and should not have*  
25 *been recorded as "acquisition costs and other." The Complaint also alleged Stulac*  
26 *knew, or was reckless in not knowing, that Peregrine's 2001 financial statements*  
27 *improperly recognized millions of dollars of revenue from agreements with resellers.*  
28 *The Complaint alleged that, by engaging in this and other conduct, Stulac violated*

1 *anti-fraud provisions of the Exchange Act, and aided and abetted violations of the*  
2 *reporting provisions of the Exchange Act.*

3 *In view of the foregoing, the Commission deems it appropriate to impose the*  
4 *sanction agreed to in [Mr. Stulac's] Offer.*

5 *Accordingly, it is hereby ORDERED, effective immediately, that:*  
6 *[Respondent] is suspended from appearing or practicing before the*  
7 *Commission as an accountant.*

8 *After five (5) years from the date of this order, [Mr. Stulac] may request that*  
9 *the Commission consider reinstatement by submitting an application ... to resume*  
10 *appearing or practicing before the Commission...*

11 FIRST CAUSE FOR DISCIPLINE

12 (Discipline by SEC)

13 12. Respondent is subject to disciplinary action under section 5100(l) of the code in that:  
14 (i) on September 14, 2009, a final judgment was entered against Stulac, permanently enjoining him  
15 from future violations of Sections 10(b) of the Exchange Act and Rule 10b-5 thereunder, and from  
16 aiding and abetting violations of Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13  
17 thereunder, in the civil action entitled Securities and Exchange Commission v. Stephen P. Gardner  
18 et al., Civil Action No. 04 CV 2002 (S.D. Cal.); and (ii) on or about September 18, 2009, in SEC  
19 Release No. 60693 and Accounting and Auditing Enforcement Release 3054 / Administrative  
20 Proceeding File No. 3-13619, the SEC suspended Respondent's right to appear or practice before  
21 that body. The circumstances leading to Respondent's suspension are set forth in paragraphs 9 to  
22 11, above.

23 SECOND CAUSE FOR DISCIPLINE

24 (Discipline by Governmental Agency)

25 13. Respondent is subject to disciplinary action under section 5100(h) of the code in that  
26 on or about September 18, 2009 a governmental body or agency suspended Respondent's right to  
27 practice before that governmental body or agency following a judgment against Respondent by  
28

1 that governmental agency on or about September 14, 2009. The circumstances are described in  
2 paragraphs 9 to 12, above.

3 THIRD CAUSE FOR DISCIPLINE

4 (Failure to Report Suspension)

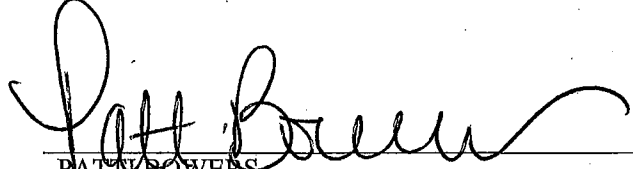
5 14. Respondent is subject to disciplinary action under sections 5100(g) and 5063(a)(3) of  
6 the code in that Respondent failed to report to the CBA his September 18, 2009 suspension as an  
7 accountant by the United States Securities and Exchange Commission to the CBA within 30 days  
8 of notice thereof.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
11 and that following the hearing, the California Board of Accountancy issue a decision:

- 12 1. Revoking or suspending or otherwise imposing discipline upon Certified Public  
13 Accountant Certificate Number 77311 issued to Daniel F. Stulac;  
14 2. Ordering Daniel F. Stulac to pay the California Board of Accountancy the reasonable  
15 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
16 Code section 5107;  
17 3. Taking such other and further action as deemed necessary and proper.

18  
19 DATED: August 24, 2011

  
PATTY BOWERS  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California  
Complainant

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